

ENTERED

February 22, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**TOKIO MARINE SPECIALTY §
INSURANCE COMPANY, §

Plaintiff. §

VS. §

FLOW-CHEM TECHNOLOGIES, §
LLC, et al., §

Defendants. §

CIVIL ACTION NO. 4:20-cv-01523

**ORDER ADOPTING MAGISTRATE JUDGE'S
MEMORANDUM AND RECOMMENDATION**

On September 15, 2021, the Court referred all dispositive and non-dispositive pretrial matters in this case to United States Magistrate Judge Andrew M. Edison under 28 U.S.C. § 636(b)(1)(A) and (B). *See* Dkt. 45. On January 28, 2022, Judge Edison filed a Memorandum and Recommendation, recommending that the Court: (1) grant in part and deny in part Defendant Tokio Marine Specialty Insurance Co.'s ("Tokio Marine") Motion for Summary Judgment (Dkt. 34); (2) deny Plaintiff Flow-Chem Technologies, LLC's ("Flow-Chem") Motion for Partial Summary Judgment (Dkt. 33); deny Plaintiff Aspen Specialty Insurance Company's ("Aspen") Motion for Partial Summary Judgment (Dkt. 36); and (4) dismiss Plaintiffs' remaining claims against Tokio Marine with prejudice. *See* Dkt. 52.

On February 11, 2022, Flow-Chem objected to Judge Edison's Memorandum and Recommendation. *See* Dkt 53. In accordance with 28 U.S.C. § 636(b)(1)(C), this Court is required to "make a de novo determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection [has been] made." After conducting this de novo review, the Court may "accept, reject, or modify, in whole or in part, the findings or

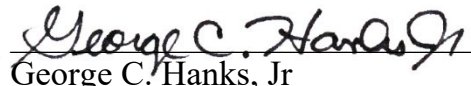
recommendations made by the magistrate judge.” *Id.*; *see also* FED. R. CIV. P. 72(b)(3).

The Court has carefully considered Flow-Chem’s Objections, the Memorandum and Recommendation, the pleadings, and the record. The Court **ACCEPTS** Judge Edison’s Memorandum and Recommendation and **ADOPTS** it as the opinion of the Court. It is therefore **ORDERED** that:

- (1) Judge Edison’s Memorandum and Recommendation (Dkt. 52) is **APPROVED AND ADOPTED** in its entirety as the holding of the Court;
- (2) Tokio Marine’s Motion for Summary Judgment (Dkt. 34) is **GRANTED** in part and **DENIED** in part;
- (3) Flow-Chem’s Motion for Partial Summary Judgment (Dkt. 33) is **DENIED**;
- (4) Aspen’s Motion for Partial Summary Judgment (Dkt. 36) is **DENIED**; and
- (5) Plaintiffs’ remaining claims against Tokio Marine are **DISMISSED WITH PREJUDICE** to refiling.

It is so **ORDERED**.

Signed on February 22, 2022, at Houston, Texas.


George C. Hanks, Jr
United States District Judge